

1882-025 Chancery Causes: Henry C. Joslyn & vs. John D. Preston &  
Lee Co.

Crowell, Martin, Graham, Taylor

CA - Contract Dispute  
T - Property  
Churches



To The Hon. Jas. A. Kelly Judge of the Circuit Court  
of Lee County Virginia

Humbly complaining your Orators Henry G. Jolly  
and James D. Emwell and your Oratrix Anne E. Martin  
respectfully show unto your Honor that they are now  
the trustees of the Presbyterian Church at Jonesville Lee  
County Virginia duly and regularly appointed such by  
said Church and also appointed such by an order of  
record entered in your Honors Court.

Your Orators and Oratrix further represent that  
about the year 1844 their predecessors in office as  
such trustees for the use and benefit of said Church  
purchased of one Nelson Preston now deceased a certain  
House and lot in the Town of Jonesville known in the  
plan of said Town as the eastern half of lot No. 3 therein

Your Orators and Oratrix further represent that said  
Church undertook to and did pay said Nelson Preston  
the sum of \$            for said lot and the house thereon  
and in consideration thereof he the said Nelson Preston  
undertook promised and bound himself whenever he should  
be required so to do to convey said House and lot with  
covenants of general warranty to

the then

trustees of said Church to be held by them and their successors  
in office for the use and benefit of said Presbyterian  
Church at Jonesville



The said trustees last mentioned have long since ceased to act as such, and your Orators and Oratrix are their legal and regularly constituted successors in office as such trustees and are entitled to demand a specific execution of the contract entered into between the said Nelson Preston and their said predecessors in office.

Your Orators and Oratrix further represent that the said Nelson Preston has long since been fully paid the purchase price of said House and lot, and although more than thirty years has now elapsed, he did not during his lifetime nor has his heirs since his death conveyed said House and lot to the original trustees or to their successors in office as he had bound himself to do.

Your Orators and Oratrix further represent that very soon after said purchase and sale the said Nelson Preston delivered possession of said House and lot to said Presbyterian Church who has continuously from that time to the present, held used and occupied the same as her rightful property, and is now in the quiet peaceful and uninterrupted possession and enjoyment thereof.

Your Orators and Oratrix further represent that in the year 1863 the said Nelson Preston departed this life intestate without having performed and discharged his part of said contract leaving five children his heirs at law.



trust. Sarah B. Nancy, John D. Emma, and Addie Preston  
to whom the legal title to said house and lot descended.  
The said Nancy, John D. Emma, and Addie Preston are  
each non residents of the state of Virginia, and the latter  
two are minors under 21 years of age.

The said Sarah B. Preston, intermarried with one James  
H. P. Graham and after becoming the mother of five chil-  
dren departed this life on the day of 18  
leaving Nancy, Nelson, Addie, Alice and Henry M. Gra-  
ham her heirs at law to whom the legal title of the said  
Sarah B. in said lot descended, all of whom are minors  
under 21 years of age. Your Orators and Oratrix are  
advised that under the facts of the case and the law of the land  
they are entitled in a court of equity to a specific execution  
of said contract on the part of said Nelson Preston by having  
a conveyance of the legal title to said house and lot from his  
heirs at law, and to attain that end is the object of this suit.

Your Orators and Oratrix therefore pray, that the said  
Nancy, John D. Emma, and Addie Preston and the said  
Nancy, Nelson, Addie, Alice, & Henry M. Graham be made  
defendants to this bill and required to answer the allegations  
thereof on oath. That an order of publication be made, posted  
and published against the said Nancy, John D. Emma, and  
Addie Preston. That a guardian ad litem be appointed  
for the latter two and for Nancy, Nelson, Addie, Alice and  
Henry M. Graham to defend their interest in this cause.



and upon a final hearing thereof a decree be rendered  
vesting said defendants of the legal title to said lot  
and a confirmation of your honor invested therein and  
be directed to convey the same by proper deed to your  
Orators and Oratrix as such trustees to be held by them  
for the benefit of said church, and if your Orators &  
Oratrix are in anywise mistaken in this their specific  
prayer, then they pray for all general and special relief  
may commence with writ of *Spem* issue directed &c.

Ayers & Morgan

Henry C. Jocelyn & al trustees vs.

vs. } Bill in Chancery

John D. Preston & others

1882, Jan'y, 18<sup>th</sup> C.P.  
 " Feb'y 24<sup>th</sup> & in part, & 29<sup>th</sup> N.  
 " March, dismissed by Regs.



Henry C. Joel & al Trustees v. Peff }  
 vs. } In Chy  
 John D. Preston & others } Defts

This cause came on this day to be heard on the bill of the Peffs the answer of the infant defendants by their guardian ad litem and the affidavits filed in the cause marked and was argued by counsel. And it appearing to the court that the order of publication made in the cause against the sum resistent defts. has been duly posted and published and the cause regularly treated at rules, and the adult defendants still failing to appear the said bill is taken for confessed as to them. On consideration of all which the court is of opinion that the plaintiffs in their capacity of trustees are entitled to a conveyance of the legal title to the house and lot in the bill mentioned, from the heirs of Nelson Preston decd. It is therefore adjudged, ordered and decreed that said heirs (the defts) be divested of the legal title and <sup>thereby</sup> Henry J. Morgan invested thereunto, and he is hereby appointed a commissioner and directed to convey the same by proper deed duly acknowledged for record with covenants of special warranty to the plaintiffs as seck trustees to be held by them and their successors in office for the benefit of said church and subject to her orders, and said commissioner will report his action to the court during the present term till which time the cause is continued.



Henry C. Joslyn &al Trustees.

vs { Decree No 1

John D. Preston &al

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Henry C. Jocelyn vs. Trustees & Depts.

101.

John D. Preston vs. Trustees

Depts.

In Lohy

The plaintiffs in this cause propose to take the deposition of the Rev. W. A. Taylor at Oxford Alabama to be read as evidence in this cause on a hearing thereof and in doing so, will propound to him the following questions.

1st. Were you living near Jonesville Lee County Virginia from the year 1840 to 1850 or any part of that time, if so, state whether or not the Presbyterian Church at Jonesville purchased of Nelson Preston deed, which is now known as the Presbyterian Church property in said town.

2- If said property was so purchased you will please state as near as you can the date of the purchase, the price agreed to be paid therefor, and whether or not the purchase money therefor was paid to said Nelson Preston, and whether or not said Preston then put said Church in possession of said property, and who has used and occupied the same from that time to the present.

3rd. You will please state who were the trustees of said church at that time, and to whom was the title to said property to be conveyed by said Preston according to the terms of the contract between him and said church.

4- You will please state any other fact you may know in relation to the subject not embraced in the foregoing interrogatories.



I as the guardian ad litem of the infant defendants  
in the foregoing styled Cause do hereby agree that the  
deposition of the Rev. W. A. Taylor may be taken at Oxford  
Alabama on the foregoing interrogatories without notice  
or compulsion and the same so taken may be read  
on the trial of said cause. January 31st 1882

C. T. Duncan Guardian  
Ad litem for Infant Defs



To W. C. Joslyn & others Trustees & Plffs } In Chy  
vs  
John D. Preston & others Defs.

Ans to Q. 1. I was living in and near Jonesville Lee Co. Va

from early in the Spring of the year of 1840 until the fall of the year 1855 and from the Spring of 1865 until 1879. My recollection and understanding has always been that the Title Bond to the House & Lot, now known as the Presbyterian Ch. property, was made by Tho. Graham <sup>sr.</sup> & wife (who was a Hamblin) and that the right was in the Hamblin heirs and not in Col. N. Preston who had neither wife nor heirs for years after the property was bought and paid for <sup>by the Presbyterian Ch</sup>. I suppose he was an intermediate purchaser between T. Graham and the Trustees of said Ch. but think the purchase money was paid mainly to Tho. Graham. My recollection is that \$400.00 was the price paid for the property, but I am not certain that this was the exact amount. The subscription to the Ch. was mainly solvent and the purchase money was all soon paid.

Ans. to Q. 2. I am satisfied from memory and from other circumstances, that the purchase was made, the purchase money paid, and the property put into the possession of the Trustees of the Ch. all between the years 1840 and 1843. I preached to the Ch. in the house and know that we have had undisputed possession and use of <sup>the</sup> property for now about 40 years. Before the war the Presbyterians, Protestant Methodists and Baptists (Rev J. Jesse) preached in the house, during the latter part of the war it was as a court house, the county paying the Trustees in repairs for



The use of it. The upper room has been rented to the Masons & Odd Fellows at different times, all for the benefit of the Ch. Portions of the house and sometimes all of it and the lot have been rented and the proceeds therefor appropriated to the improvement of the Ch. or salary of the minister from year to year ever since our first occupancy of it. This was managed by Mr E. Hill the Elder & Trustee of the Ch. until his death and since his death, attended to by myself as the agent of the Ch. (Mount Carmel of which this was but an arm until recently) by and with the advice of the Ch. and of Mr. Charles Daugherty, the only surviving Trustee of the Ch. All the rent for the house and lot has always been used for the benefit of the Ch. and when not used as a house of worship; the congregation worshipping in the Methodist Episcopal Ch. South the rental proceeds of the property were used for the benefit of the Presbyterian Ch. as their property.

As to 2. 3. Col. J. D. Sharp, <sup>Esqr</sup> Elijah Hill and Charles Daugherty were the Trustees, appointed by the Court, by the application of the Ch. through their Atty Col. J. D. Sharp Esqr, and the title bond was made to them for the use and benefit of the Arm of the Presbyterian Ch. at Jonesville Lee Co. Va. The Hamblin heirs were widely scattered and the obtaining of the Deed was inconvenient and therefore neglected until Col. Sharp's death and so passed on until the present.

As to 2. 4. <sup>Richard (Dick)</sup> Charles Hamblin, Charles Daugherty and wife. and probably Col. Dr. H. Fulkerson and Saml Edsall can give you further evidence in relation to this matter. I think the assessment and collection of Taxes in the Town of Jonesville will also throw some light upon the subject. W. A. Taylor

State of Alabama }

Caltham County }

Before me L. S. Cody,  
a Notary Public in & for the above State  
& County personally appeared Wm. A. Taylor  
who being duly sworn deposes & says the above  
statement is an account to the best of his  
knowledge & belief

W. A. Taylor

Sworn & subscribed to before me  
this 6th day of February  
1882

L. S. Cody  
Notary Public





Henry C. Jernegan & others  
vs.

Defts.

} In Chy

John D. Preston & al.

Defts

I do swear that according to my best information knowledge  
and belief John D. Sney, Emma, and Mellicie Preston four of the  
defendants in the above styled cause are now residents of the  
State of Virginia so help me god. Jan 18 1882

Henry C. Jernegan

Sworn to before me Jan 18 1882.



Henry to Hodgson vol

1851 } Aff'd for Post.

John D. Brewster vol



Virginia

In the clerk's office of the Circuit Court of Lee County, Jan 18. 1882

Henry C. Joslyn & others trustees &c. Petors

vs.

John D. Preston & others

Defts

In Chancery

The object of this suit is to extract from the heirs of Nelson Preston dead the legal title to the house & lot in the hill mentioned, known as the Presbyterian Church property in the town of Janesville, and it appearing from an affidavit filed in the cause that the defendants John D. Preston, Nancy Preston, Emma Preston and Addie Preston are not residents of Virginia. It is ordered that they appear here within one month after due publication of this order, to do what is necessary to protect their interest in this suit.

And that: - J. A. Hyatt clerk

I Certify that I posted a copy of the above order at the front door of the Court House of Lee County on the 18<sup>th</sup> Jan 1882 that being Court day & delivered a copy thereof to the Lee County Sentinel for publication, this day, Jan. 18<sup>th</sup> 1882

J. A. Hyatt clerk



Henry C. Jocelyn ul

27 { Order Pub.

John D. Preston ul



The Commonwealth of Virginia,

To the Sheriff of Lee County - - - Greeting :

We Command you to Summon

*John O. Preston, Nancy Preston,  
Emma Preston, Addie Preston, Nancy Graham,  
Nelson Graham, Addie Graham, Alice Graham  
and Henry M. Graham.*

To appear at the Clerk's office of the Circuit Court of Lee, at the Court-House, on the first Monday in  
*February* next, being rule day to answer a bill in Chancery, exhibited in our said Court against  
*them*

by *Henry C. Jaslyn, James  
O. Brownell and Ann E. Martin Trustees &c*

And have then there this writ. Witness JOHN A. G. HYATT Clerk of our said court at the Court-House

this *19<sup>th</sup>* day of *January* 188*2*; in the *100<sup>th</sup>* year of the Commonwealth.

*J. A. G. Hyatt*

CLERK.



Still

H. C. Joselyn & Co. Trust. & Co.

vs  $\frac{3}{4}$  Spain & Co.

John O. Preston et al

So Febry Rules 1882

Executed on the

Line Graham

Children the others

being non-residents

Jan 20<sup>th</sup> 1882

Francis Miles

D.S.